IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.W.P No. 18521 of 2006
Date of decision : November 06, 2007

Suraj Bhan

..... Petitioner

through Mr.Satish Goel, Advocate

v.

State of Haryana & others

..... Respondents

through Mr.Ashish Kapoor, Addl.A.G.Haryana

CORAM : HON'BLE MR.JUSTICE UMA NATH SINGH
HON'BLE MR.JUSTICE RAJIVE BHALLA

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1. **Whether Reporters of Local Newspapers may be allowed to see the judgment ?**
2. **To be referred to the Reporters or not ?**
3. **Whether the judgment should be reported in the Digest ?**

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RAJIVE BHALLA,J

The petitioner prays for the issuance of a writ in the nature of certiorari for quashing the order, dated 14.8.2006 (Annexure P-6), and for quashing condition No.4 in Annexure P-1, and condition No.5 in Annexure P-2.

In order to auction lands and buildings that were no longer required by the Irrigation Department, the State of Haryana issued an advertisement, dated 8.8.2004, detailing the properties including the land of Canal Rest House, Badsikri, to be auctioned on 30.8.2004 at 11 AM at Panchayat Bhawan, Kaithal. The petitioner claims that as he proposed to participate in the auction with respect to the land of Canal Rest House, Badsikri, measuring 7.97 acres, he deposited Rs.4,12,000/- as 25% of the reserved price, being Rs.1.75 lac per acre and Rs.2.50 lacs for

buildings/trees/malba. The total reserve price was fixed at Rs.16,44,750/-. Seven persons, including the petitioner, deposited 25% of the reserved price. The petitioner's bid of Rs.16,61,000/- was declared the highest and auction proceedings were duly signed by respondent No.2, the Superintending Engineer, the Executive Engineer, the Sub Divisional Officer, Narwana Water Services Division, and the Treasury Officer, Kaithal, on 30.8.2004. As the bid was for a sum of Rs.16.61 lacs, the petitioner made up the difference by depositing the balance amount and, thus, deposited Rs.4.20 lacs, being 25% of the bid amount.

The Engineer-in-Chief, Irrigation Department, Panchkula forwarded the papers for sanction/approval of the auction, vide letter, dated 28.11.2004. However, as no sale deed was executed, the petitioner served a legal notice, dated 3.1.2006, upon the respondents, and thereafter filed CWP No.4827 of 2006, praying for the issuance of a writ in the nature of mandamus directing the respondents to transfer ownership of the land. During the pendency of the writ petition, respondent No.1 passed an order, dated 14.8.2006, declining to grant approval for the auction. The petitioner withdrew the writ petition and filed the present petition, impugning the aforementioned order.

Counsel for the petitioner contends that the order, declining to approve the auction, is arbitrary and illegal. The petitioner offered the highest bid. As his bid was higher than the reserve price, there was no plausible reason for not approving/confirming the auction. Further-more, the impugned order does not assign any reason for rejecting the auction, and is, therefore, void. For the above proposition, counsel for the petitioner has placed reliance upon a Full Bench judgment of this Court in

Subhash Chand v. State of Haryana and others, 2007(3) RCR (Civil) 547.

It is also argued that condition No.4 of the advertisement (Annexure P-1), which enables the State to cancel an auction, without assigning any reason, and condition No.5 of Annexure P-2, which is similarly worded, are arbitrary. They confer unbridled powers upon officers of the State to cancel/decline confirmation of an auction, without assigning any reasons.

Counsel for the State of Haryana, on the other hand, submits that power to confirm or reject an auction vests with the State. The petitioner's offer was not accepted, as the amount offered was only marginally above the reserve price and, therefore, the authorities were justified in not confirming the auction. It is further submitted that as the petitioner participated in the auction, he is estopped from laying challenge to the correctness of condition No.4 in Annexure P-1, and condition No.5 in Annexure P-2. It is, thus, prayed that the present writ petition be dismissed.

We have heard learned counsel for the parties, and perused the paper book, as also the original file, containing the decision, dis-approving the auction.

The petitioner has placed reliance upon a Full Bench judgment of this Court in Subhash Chand's case (supra). A perusal thereof discloses that the Full Bench expressed agreement with another Full Bench judgment reported as Surja Ram vs. The State of Haryana, 1984 PLJ 282, wherein it was held that every order of the State or its functionaries has to meet the twin test of “reasons” and “relevance”, and a competent authority is duty bound to record relevant reasons for refusing to accept the highest or

other bid, even though such reasons are not required to be disclosed to the bidders but are required to be placed before a Court in the process of judicial review. It would be necessary to reproduce a relevant extract from the Full Bench judgment in Subhash Chand's case (supra), which reads as under:-

> "12. On a plain reading of the Full Bench decision in Surja Ram's case (supra), we find that the said judgment, to the extent it obligates the competent authority to give reasons for non-acceptance of the highest or the other bid, notwithstanding the fact that the relevant rules do not expressly require so, requires no reconsideration. The aforesaid view is totally consistent with what the Apex Court has held from time to time."

It is, thus, apparent that functionaries of the State are obliged to assign reasons for non acceptance of the highest or other bids irrespective of the fact whether the rules require assigning of reasons or not. The Full Bench judgment in Subhash Chand's case (supra), in our considered opinion, does not advance the petitioner's case, in any manner, as a perusal of the record, produced before us, and referred to in the following paragraph, discloses that while rejecting the auction, reasons were assigned.

A perusal of the record reveals that in all six sites were auctioned on 30.8.2004. The government confirmed the auction of one site i.e Mundri Fatehpur CRH, as the price offered was more than double the reserve price. As regards other sites, including the site in dispute, the government decided not to approve the auction on the ground that the price offered was marginally above the reserve price, the reserve price being

Rs.16,44,750/- and the bid amount being Rs.16,61,000/-. The petitioner's contention that no reason was assigned for dis-approval of the auction is, thus, factually incorrect and is consequently rejected.

In view of what has been stated herein above, we find no error in the impugned order, declining to approve the auction. The order, declining the auction, is not illegal, void or capricious and has been passed on relevant considerations. Consequently, the writ petition is dismissed, with no order as to costs.

(RAJIVE BHALLA)
JUDGE

(UMA NATH SINGH)
JUDGE

November 06, 2007
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